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6 THYSSENKRUPP ELEVATOR CORPORATION

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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
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11 NATHAN WHITE,)
12 Plaintiff,)
13 vs.)
14 TK ELEVATOR CORPORATION f/k/a)
15 THYSSENKRUPP ELEVATOR)
16 CORPORATION; DOES I through X,)
through X, inclusive,)
17 Defendants.)

CASE NO. 2:21-cv-01696-JAD-VCF

18 **STIPULATION AND ORDER FOR CONFIDENTIALITY AND PROTECTION**
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20 The parties to the above-captioned litigation, by their respective counsel, have agreed to
21 this Protective Agreement ("Agreement") in order to establish procedures for disclosure and use
22 of confidential information that may be produced in discovery in this case.

23 1. This Agreement shall be applicable to and govern the contents of all depositions,
24 documents, information or things produced in response to requests for production of documents,
25 answers to interrogatories, responses to requests for admissions, transcripts, exhibits, pleadings
26 and all other discovery taken in accordance with the Federal Rules of Civil Procedure, as well as
27 testimony adduced at trial, matters in evidence and other information (collectively, "Documents")
28 which the disclosing party designates as "CONFIDENTIAL MATERIAL" hereafter furnished,

1 directly or indirectly, by or on behalf of any party or any non-party witness in connection with this
2 action. As used herein, "disclosing party" shall refer to the parties to this action or to third parties
3 who give testimony or produce documents or other information. As used herein, "designating
4 party" shall refer to one of the parties herein who designates any material as CONFIDENTIAL
5 MATERIAL.

6 2. The following information shall be considered CONFIDENTIAL MATERIAL
7 even absent specific designation by a party or marking pursuant to paragraph 8 herein: TK
8 Elevator Corporation's BEEP Manual.

9 3. In designating information as CONFIDENTIAL MATERIAL, a disclosing party
10 shall make such a designation only as to materials that it in good faith believes are confidential.
11 CONFIDENTIAL MATERIAL shall be used by the parties to this litigation solely for the purpose
12 of conducting this litigation, but not for any other purposes whatsoever.

13 4. In absence of written permission from the disclosing party, or an order of the
14 Court, information designated as CONFIDENTIAL MATERIAL shall be used solely for the
15 purposes of litigation between the parties hereto, and may be disclosed by the parties only to the
16 following persons:

17 a. the attorneys working on this action on behalf of any party, including stenographic
18 and clerical employees and contractors working under the direct supervision of such counsel;

19 b. employees of a party who are required by such party to work directly on this
20 litigation, with disclosure only to the extent necessary to perform such work;

21 c. the named plaintiff;

22 d. the Court, jury and court personnel, including court reporters and stenographers
23 employees in connection with this suit;

24 e. experts or consultants retained or employed in good faith to assist any party in the
25 evaluation, prosecution or defense of this suit;

26 f. any witness or deponent who is asked at his or her deposition or at trial to testify
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1 about documents designated as CONFIDENTIAL MATERIAL or the contents thereof;

2 g. persons who are (i) noticed for depositions or designated, or who counsel in good
3 faith intends to designate, as trial witnesses (and their counsel, if any), or (ii) members of the class
4 after it is certified, if class counsel in good faith determines that such disclosure is necessary in
5 connection with the prosecution of this lawsuit; provided that each such person in partes (i) and
6 (ii) only may be shown CONFIDENTIAL MATERIAL and may not retain any CONFIDENTIAL
7 MATERIAL or copies thereof;

8 h. stenographic reporters engaged for depositions or other proceedings necessary for
9 the conduct of this case;

10 i. outside photocopying services engaged by a party or its counsel to assist in this
11 litigation;

12 j. outside data processing companies or individuals engaged by a party or its counsel
13 to assist in this litigation;

14 k. any person who authored or properly received in the ordinary course of business
15 the particular information sought to be disclosed.

16 5. The persons described in paragraphs 4 (e), (g), (j) or (k) shall have access to
17 CONFIDENTIAL MATERIAL only after they have been made aware of the provisions of this
18 Agreement and have manifested their assent to be bound thereby by signing a copy of the annexed
19 "Acknowledgment." Copies of such Acknowledgments shall be maintained by counsel for the
20 parties, and shall be available for inspection by the Court at any time. Persons receiving
21 CONFIDENTIAL MATERIAL are prohibited from disclosing that material to any other person.

22 6. Each individual who receives any CONFIDENTIAL MATERIAL hereby agrees to
23 subject himself/herself to the jurisdiction of the Court for the purpose of any proceedings relating
24 to the performance under, compliance with or violation of this Agreement.

25 7. The recipient of any CONFIDENTIAL MATERIAL that is provided under this
26 Agreement shall maintain such information in a secure and safe area and shall exercise the same

1 standard of due and proper care with respect to the storage, custody, use and/or dissemination of
2 such information as is exercised by the recipient with respect to his, her or its own proprietary
3 information. CONFIDENTIAL MATERIAL shall not be copied, reproduced, summarized or
4 abstracted, except to the extent that summarization or abstraction is reasonably necessary for the
5 conduct of this lawsuit. All such copies, reproductions, summarizations, extractions, and
6 abstractions shall be subject to the terms of this Agreement, and labeled in the same manner as the
7 designated material on which they are based.

8 8. Subject to the provisions of paragraphs 2 above, disclosing parties shall designate
9 CONFIDENTIAL MATERIAL as follows:

10 a. In the case of interrogatory answers, responses to requests to admit, documents
11 provided in response to document requests, and the information contained therein, designation
12 shall be made by placing the following legend on the first page of such document prior to
13 production: "CONFIDENTIAL MATERIAL". In the event that a party inadvertently fails to
14 provide such a stamp or other designation at the time of production, that party may at any time
15 thereafter stamp or otherwise designate a Document or other information as treated as designated
16 beginning at the time such designation occurs.

17 b. In the case of depositions, designation of the portion of the transcript (including
18 exhibits) which contains CONFIDENTIAL MATERIAL shall be made by a statement to such
19 effect on the record in the course of the deposition or, upon review of such transcript, by counsel
20 for the party to whose CONFIDENTIAL MATERIAL the deponent has had access, which counsel
21 shall designate within fourteen (14) days after counsel's receipt of the transcript. During those
22 fourteen days, the entire deposition transcript, including exhibits, shall be deemed
23 CONFIDENTIAL MATERIAL.

24 c. Any CONFIDENTIAL MATERIAL produced in a non-paper media (e.g.,
25 videotape, audiotape, computer disk) may be designated as such by labeling the outside of such
26 non-paper media as CONFIDENTIAL MATERIAL and filing this material in a sealed envelope

1 with a legend described in paragraph 8(a). In the event a receiving party generates any "hard
2 copy," transcription, or printout from any such designated non-paper media, such party must treat
3 each copy, transcription, or printout as designated and label it in a manner effective to ensure
4 proper treatment.

5 9. A party shall not be obligated to challenge the propriety of a CONFIDENTIAL
6 MATERIAL designation at the time made, and failure to do so shall not preclude a subsequent
7 challenge thereto during the pendency of this litigation. In the event that any party to this
8 litigation disagrees at any stage of these proceedings with such designation, such party shall
9 provide to the producing party written notice of its disagreement with the designation. The parties
10 shall first try to resolve such dispute in good faith on an informal basis. If the dispute cannot be
11 resolved, the party challenging the designation may request appropriate relief from the Court, but
12 in any event, such relief from the Court shall not be requested before ten (10) business days after
13 the producing party is served with said written notice. However, in the event of a dispute about
14 the propriety of a designation that arises in connection with the denial of a motion to seal (see
15 paragraph 11 below), the party challenging the designation may request a motion to resolve the
16 matter. The burden of proving that information has been properly designated as
17 CONFIDENTIAL MATERIAL is on the party making such designation.

18 10. Documents containing CONFIDENTIAL MATERIAL of any party shall be filed
19 with the Court only if necessary to do so for purposes of trial, substantive motions, including
20 without limitation, motions for preliminary injunction or summary judgment, or other Court
21 matters.

22 11. If any party intends to, or expects that it may, file CONFIDENTIAL MATERIAL
23 with the Court for any reason, or use of CONFIDENTIAL MATERIAL in any hearing or other
24 Court proceeding, that party must file the same under seal and provide to the Judge's chambers an
25 unfiled version of the Document.

26 12. In the event that any CONFIDENTIAL MATERIAL is used in any court
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1 proceeding in connection with this litigation, it shall not lose its CONFIDENTIAL MATERIAL
2 status through such use, and the parties shall take all steps reasonably required to protect its
3 confidentiality during such use.

4 13. If CONFIDENTIAL MATERIAL is disclosed to any person other than in the
5 manner authorized by this Agreement, the person responsible for the disclosure must immediately
6 bring all pertinent facts relating to such disclosure to the attention of counsel for the designating
7 party and, without prejudice to any other rights and remedies of the parties, make every effort to
8 prevent further disclosure by it or by the person who was the recipient of such information.

9 14. Nothing in this Agreement shall preclude any party to the lawsuit or their attorneys
10 from (a) showing a Document designated as CONFIDENTIAL MATERIAL to an individual who
11 either prepared the Document prior to the filing of this action, or is identified on the face of the
12 Document as an addressee or copy addressee, or (b) disclosing or using, in any manner or for any
13 purpose, any information or Documents from the party's own files that the party itself has
14 designated as CONFIDENTIAL MATERIAL.

15 15. In the event any receiving party having possession, custody or control of any
16 CONFIDENTIAL MATERIAL receives a subpoena or other process or order to produce such
17 information in another, unrelated legal proceeding, from a non-party to this action, such receiving
18 party shall notify counsel for the producing party or third party of the subpoena or other process or
19 order, furnish counsel for the designating party with a copy of said subpoena or other process or
20 order, and cooperate with respect to all reasonable procedures sought to be pursued by the
21 designating party whose interests may be affected. The designating party asserting the
22 CONFIDENTIAL MATERIAL treatment shall have the burden of defending against such
23 subpoena, process or order. The receiving party receiving the subpoena or other process or order
24 shall be entitled to comply with it except to the extent the producing party or third party asserting
25 the "CONFIDENTIAL MATERIAL" treatment is successful in obtaining an order modifying or
26 quashing the subpoena or other process or order.

1 16. Within sixty (60) days of the termination of litigation between the parties, all
2 CONFIDENTIAL MATERIAL and all copies thereof shall be returned to the party that produced
3 it. Counsel for each party shall be entitled to retain all pleadings, motion papers, legal
4 memoranda, correspondence and work product.

5 17. Except as specifically provided herein, the terms, conditions, and limitations of this
6 Agreement shall survive the termination of this action.

7 18. This Agreement shall not be construed as waiving any right to assert a claim of
8 privilege, relevance, overbreadth, burdensomeness or other grounds for not producing material
9 called for, and access to such material shall be only as otherwise provided by the discovery rules
10 and other applicable law.

11 DATED this 8th day of March, 2022.

12 ROGERS, MASTRANGELO, CARVALHO
13 & MITCHELL

14 /s/ Rebecca Mastrangelo

15 _____
Rebecca L. Mastrangelo, Esq.
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700 S. Third Street
Las Vegas, Nevada 89101
Attorney for Defendant
TK Elevator Corporation

SHOOK & STONE, CHTD.

14 /s/ John Shook

15 _____
John B. Shook, Esq.
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710 S. Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

19 **ORDER**

20 IT IS SO ORDERED this 10th day of March, 2022.

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24 U.S. MAGISTRATE JUDGE
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1 SUBMITTED BY:

2 ROGERS, MASTRANGELO, CARVALHO
& MITCHELL

3 /s/ Rebecca Mastrangelo

4 REBECCA L. MASTRANGELO, ESQ.

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6 Las Vegas, Nevada 89101

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7 TK Elevator Corporation

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